

**REMARKS**

Claims 13-15 and 17-28 were pending in the application. Claims 13-15, 19, and 27-28 have been amended. Upon entry of these amendments, Claims 13-15 and 17-28 will be pending and under active consideration. Claims 13, 19, and 27 are independent.

Applicants submit respectfully that the amendments presented herein are supported fully by the claims and/or specification as originally filed and, thus, do not represent new subject matter.

Claims 13, 19, and 27 have been amended to point out more particularly and claim more distinctly that which Applicants regard as their invention by now reciting the transitional expression "consisting essentially of," and their dependent claims are amended in accordance with this language. The amendment of Claims 13, 19, and 27 finds support throughout the specification, for example at page 7, line 27-33.

Applicants respectfully request entry of the amendments and remarks made herein into the file history of the present invention. Reconsideration and withdrawal of the rejections set forth in the above-identified Office Action are respectfully requested.

**I. The Rejections Under 35 U.S.C. § 102(b) Should Be Withdrawn**

The Office Action, at section 3, rejects Claims 13 and 17-27 as allegedly being anticipated by U.S. Patent No. 5,023,048 to Mardon *et al.* (hereinafter, "Mardon"), as supported by U.S. Patent No. 5,254,308 to Garde *et al.* (hereinafter, "Garde") and U.S. Patent No. 5,790,623 to Van Swam *et al.* (hereinafter, "Van Swam") under 35 U.S.C. § 102(b). The Office Action alleges that Mardon discloses compositions

comprising elements in ranges overlapping the ranges of the presently-claimed invention. The Office Action points out that the open transitional language of Applicants' claims allows the presence of additional elements that are taught by Mardon (see the paragraph bridging pages 2-3). Applicants traverse respectfully.

Applicants submit respectfully that Claims 13 and 17-27, as amended, are not anticipated by Mardon because Mardon does not disclose each and every element of those amended claims as is required for a *prima facie* showing of anticipation. In particular, Claims 13 and 17-27, as amended, are directed to a composition *consisting essentially of* Zr, Nb, Fe, Sr, Ni, and Cr in certain combinations. Applicants submit respectfully that Mardon does not teach or suggest a composition *consisting essentially of* Zr, Nb, Fe, Sr, Ni, and Cr in the combinations claimed by Applicants. As noted in the Office Action at the bottom of page 2, Mardon teaches compositions including elements (e.g., oxygen) that are not contained within the formulations claimed by Applicants.

Accordingly, Applicants request respectfully that the rejection of Claims 13 and 17-27 under 35 U.S.C. § 102(b) be withdrawn.

## **II. The Rejections Under 35 U.S.C. § 103(a) Should Be Withdrawn**

The Office Action, at sections 4-8, rejects Claims 13-15 and 17-28 as allegedly being obvious over the references of record under 35 U.S.C. § 103(a). In short, the Office Action alleges that the references teach all the limitations of the rejected claims inasmuch as the cited references teach overlapping ranges of the elements claimed within Applicants' formulation. The Office Action alleges that the cited overlapping ranges render Applicants' ranges obvious. However, the Office Action

acknowledges that a showing of unexpected results within the narrowed ranges using comparative data may overcome the obviousness rejections (see bottom of page 10).

Applicants traverse respectfully.

Applicant submits respectfully that the novel compositions of the present invention, as claimed presently, are neither taught nor suggested within the cited references. Applicants assert that compositions prepared using Applicants' specific ranges have unexpected benefits compared to the compositions of the cited references. In support of this assertion, Applicants submit as Exhibit A a declaration prepared by inventor Magnus Limbäck proving with comparative data that unexpected results are achieved in tests of compositions using Applicants' claimed ranges. Thus, Applicants submit respectfully that the combination of the cited references fails to render the present claims, as amended, obvious under 35 U.S.C. § 103(a).

Accordingly, Applicants submit respectfully that the rejection of Claims 13-15 and 17-28 under 35 U.S.C. § 103(a) have been overcome, and Applicants request respectfully that the rejection of Claims 13-15 and 17-28 under 35 U.S.C. § 103(a) be withdrawn.

### **CONCLUSION**

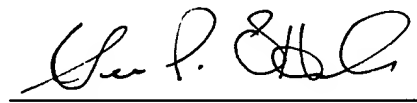
Applicants submit respectfully that the present application is in condition for allowance. Favorable reconsideration, withdrawal of the rejections set forth in the above-noted Office Action, and an early Notice of Allowance are requested.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 424-7500. All correspondence should be directed to our address given below.

**AUTHORIZATION**

The Commissioner is hereby authorized to charge any insufficiency, including a three-month extension fee of \$950.00, or credit any overpayment associated with this application to Swidler Berlin Shereff Friedman, LLP Deposit Account No. 19-5127 (order no. 19378.0011).

Respectfully submitted,

 6/23/04  
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